

APPROVED

PLANNING COMMISSION SUBCOMMITTEE MINUTES

February 25, 2009

I. ROLL CALL

Present: Alex Galang, and Gurdev Sandhu
Staff: Ah Sing, Barbey, and Hom

1. MINOR SITE DEVELOPMENT PERMIT NO. MS08- 0016

Cindy Hom, Assistant Planner, informed the Commission that the applicant has decided to change their application and will bring this item back to the Commission at a later date.

2. MINOR SITE DEVELOPMENT PERMIT NO. MS09- 0003

Cindy Hom, Assistant Planner, presented a request to install site modifications that include new security fencing at the rear of the building and landscape modifications for the site located at 1210 California Circle. Ms. Hom recommended approving Minor Site Development Permit No. MS09-0003 subject to the Conditions of Approval.

Motion to approve Minor Site Development Permit No. MS09-0003.

M/S: Sandhu / Galang

AYES: 2

NOES: 0

II. ADJOURNMENT

This meeting was adjourned at 6:37 p.m.

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I. PLEDGE OF ALLEGIANCE

Chair Williams called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

II. ROLL CALL/SEATING OF ALTERNATE

Present: Aslam Ali (7:02 pm), Alex Galang, Sudhir Mandal,
Gurdev Sandhu, Noella Tabladillo, and Cliff Williams
Absent: Larry Ciardella
Staff: Ah Sing, Barbey, Hom, Lindsay, and Otake

III. PUBLIC FORUM

Chair Williams invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendaize the matter for a future meeting.

There were no speakers in the audience.

IV. APPROVAL OF MINUTES February 11, 2009

Chair Williams called for approval of the minutes of the Planning Commission meeting of February 11, 2009.

There were no changes to the minutes.

Motion to approve the minutes of February 11, 2009 as submitted.

M/S: Mandal / Galang

AYES: 5

NOES: 0

ABSENT: 1 (Larry Ciardella)

ABSTAIN: 1 (Gurdev Sandhu – Item 3)

V. ANNOUNCEMENTS

Senior Planner, Sheldon AhSing, reminded the Commission that the City Clerk's Office has requested an updated Form 700 from each Commissioner.

Senior Planner, Sheldon AhSing, reminded the Commission that the Planner's Institute is March 25th thru 27th and requested Commissioners contact Debbie Barbey or Yvonne Andrade by Friday, February 27, if interested in attending.

VI. CONFLICT OF INTEREST

Assistant City Attorney Bryan Otake asked if any member of the Commission has any personal or financial conflict of interest related to any of the items on tonight's agenda. Vice Chair Mandal stated his residence is near Clauser Drive for Item 4.

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VII.

APPROVAL OF AGENDA

Chair Williams asked whether staff or the Commission have any changes to the agenda.

Vice-Chair Mandal requested Items 4 and 5 be switched.

Motion to switch Items 4 and 5.

M/S: Mandal / Sandhu

AYES: 6

NOES: 0

ABSENT: 1 (Larry Ciardella)

ABSTAIN: 0

Motion to approve the agenda as modified.

M/S: Galang / Mandal

AYES: 6

NOES: 0

ABSENT: 1 (Larry Ciardella)

ABSTAIN: 0

VIII.

CONSENT CALENDAR

Chair Williams asked whether staff, the Commission, or anyone in the audience wish to remove or add any items to the consent calendar.

A member of the audience wished to speak on Item 1. Chair Williams removed Item 1 from the Consent Calendar.

Chair Williams opened the public hearing on Item No. 2

There were no speakers from the audience.

Motion to close the public hearing and table Item 2 and staff will re-notice.

M/S: Tabladillo / Mandal

AYES: 6

NOES: 0

ABSENT: 1 (Larry Ciardella)

ABSTAIN: 0

***2 ZONING AMENDMENT NO. ZA08-0001:** A consideration of amendments to the zoning ordinance text. The City proposes to amend the zoning ordinance by 1) combining the separate Commercial District sections (CO, C1, C2, TC and HS) into one section; combining the separate Industrial District sections (M1, M2 and MP) into one section; and 2) reformatting the Institution District section, Agricultural District section and Exceptions sections. The purpose of the project is to consolidate and streamline the zoning ordinance to make it easier to understand and implement. Staff Contact: Sheldon S. Ah Sing (408) 586-3278. *(Recommendation: Close the public hearing and table the item, staff will re-notice the public hearing.)*

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**IX.
PUBLIC HEARING**

***1 SITE DEVELOPMENT
PERMIT NO. SD08-
0006, CONDITIONAL
USE PERMIT NO. 7908-
0028, AND
ENVIRONMENTAL
ASSESSMENT NO.
EA09-0003:**

Cindy Hom, Assistant Planner, presented a request to redevelop an existing commercial building, located at 1535 Landess Avenue, into a commercial center that includes a food market, retail operations, and office space. The applicant has requested the project be continued to give them more time to evaluate the development impacts imposed on the project. Ms. Hom recommended to open the public hearing and continue the item to the March 11th meeting.

Chair Williams opened the public hearing.

Bob Gou, 1400 Dempsey Road, Milpitas, said that when reviewing the project's floor plan he noticed there are nine restaurants and a coffee shop. He is concerned that there will be an over concentration of restaurant uses, which will dilute profits of existing restaurants in the area and increase the use of water and sewage.

Motion to open the public hearing and continue the item to the March 11th meeting.

M/S: Mandal, Ciardella

AYES: 6

NOES: 0

ABSENT: 1 (Larry Ciardella)

ABSTAIN: 0

**3 CONDITIONAL USE
PERMIT NO. UP08-
0029, SITE
DEVELOPMENT
PERMIT NO. SD08-0007
AND PLANNED UNIT
DEVELOPMENT
PERMIT NO. PD09-0001**

Judie Gilli, Associate Planner, presented a request to construct a 7,670 square foot church and on-site monument sign located at 1230 Piedmont Road. The project is located in the Single Family Residential with Hillside Combining District and Site and Architectural Overlay (R1-H-S). Ms. Gilli recommended to open the public hearing and adopt Resolution No 09-013 approving the project subject to conditions of approval.

Vice-Chair Mandal asked if we require the use of recycled water for landscape. Ms. Gilli stated that the Green Building Guidelines suggest the use of recycled water, but we do not require it.

Mr. Lindsay stated that we do require projects implement the use of recycled water in their landscaping if the infrastructure is planned or immediately available to that area. In this case the infrastructure is not close enough to access so it, therefore, it is not a requirement of the project.

Vice-Chair Mandal asked if City lights and fire hydrants are going to be installed on that side of Piedmont and who is paying for the installation. Ms. Gillie stated that the project proposes the installation of one fire hydrant on Piedmont Rd and the utilities will be accessed through Landess Ave.

Vice-Chair Mandal asked if there are streetlights. Ms. Gillie stated that she was not positive about the presence of streetlights, but that there is not an improved sidewalk in the area. Ms. Gilli will research the streetlights and bring the answer back to the Commission.

Commissioner Sandhu asked what happened to the house that was approved for this site in 2006. Ms Gilli stated that the plans were approved, but the applicant never built the house or applied for a Building Permit.

Commissioner Tabladillo asked what happens to the existing roadway (cul-de-sac) behind the property and if that roadway is Milpitas or San Jose's jurisdiction... back side of plans (A-1) cul-de-sac and sidewalk. Ms. Gillie stated that a portion of the road that leads to the cul-de-sac is in San Jose, but the property in question is in Milpitas. Ms. Gilli stated that the applicant has no plans to use the cul-de-sac and the Public Works Department has no plans to maintain the roadway.

Commissioner Tabladillo asked what happens to that parcel in the back, is it left to let the infrastructure crumble. Ms Gilli stated that she is not aware of any plans to improve the parcel.

Chair Williams asked if the cul-de-sac is City property. Ms. Gilli stated the cul-de-sac is City property.

Commissioner Tabladillo asked if the front of the parcel on Piedmont would have a sidewalk installed. Ms. Gilli stated the plans include a sidewalk for the length of the property on Piedmont.

Commissioner Tabladillo asked if there were plans for a day care on this site. Ms. Gilli stated there are no plans for a day care.

Commissioner Tabladillo asked if the project proposes one-way in and one-way out of the parking lot. Ms. Gilli stated that after receiving feedback from the Traffic Division the applicant changed the plans to have one-way in (South end of parcel) and one-way out (North end of parcel).

Commissioner Tabladillo asked if the intersection (Landess & Piedmont) will remain a four-way stop. Ms. Gilli stated that there are no changes to intersection.

Commissioner Tabladillo asked if there will be street parking in front on Piedmont. Ms Gilli stated that there will be no street parking, per the Traffic Division, the existing roadway cannot be widened to accommodate street parking. Ms. Gilli stated the project does have more than the required parking.

Commissioner Galang asked if the entrance will be off of Landess. Ms. Gilli stated that the entrance is on Piedmont, coming from Landess you would make a left turn on to Piedmont and then a right turn into the parking lot.

Commissioner Galang asked if there were plans to have a turn lane into the parking lot. Ms. Gilli stated that it is one-way in and one-way out, so you would turn into the parking lot and drive to the North end of the property to exit thru a different driveway.

Commissioner Galang asked if parking is available across the street. Ms. Gilli stated that there is no street parking on that section of Piedmont, but the closest street parking is on Landess.

Commissioner Ali asked if it is a right turn only out of the parking lot. Ms. Gilli stated that it is a right turn only.

Commissioner Ali asked how many parking spaces are planned. Ms. Gilli stated there are 59 parking spaces.

Commissioner Ali asked if all of the vehicles would have to make a U-turn on Piedmont to get back to Landess. Ms. Gilli stated that is correct.

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Commissioner Ali asked the name of the street the people live on who submitted concerns. Ms. Gilli stated that the concerns were from residents on Pinard Street.

Chair Williams asked how many people were in the Church's congregation. Ms. Gilli stated there are 160 seats, but would defer the question to the applicant.

John Ha, Architect, thanked City staff, specifically Judie, for the hard work and support. He has read and agrees to all of the conditions of approval for the project.

Steven Hosea, Pastor, 400 Brussel St, San Francisco, explained the Church's history starting in San Jose in 1975. The Church has been renting facilities in Campbell for Sunday services, bible study, and prayer services. The Church has a great need to have their own facility to allow for expansion of the Church's current congregation and community activities.

Chair Williams asked how many members are in the congregation. Mr. Hosea stated there are approximately 100-125 members within the congregation.

Chair Williams asked if this building would serve the needs of the Church with the anticipated growth, based on historical growth trends, or will the congregation outgrow this building. Mr. Ha stated that there was a five-year and ten-year growth plan and the parking/seating is based on the ten-year growth plan.

Chair Williams asked if the congregation has any events in which the public or other organizations would be invited to attend. Mr. Ha stated that there are no plans for public events.

Chair Williams asked if there have been any special events within the last ten years. Mr. Hosea stated there are family seminars and trainings for Church members only.

Vice-Chair Mandal asked if the congregation has a carpooling program since there are 120 members and 59 parking spaces. Mr. Ha stated that if the need arises they could implement a program.

Vice-Chair Mandal asked how this program would be implemented. Mr. Ha stated that an announcement would be made at Sunday services requesting members who live near each other carpool to services.

Commissioner Tabladillo asked how many seats are in the Church and if they are bolted to the floor or moveable. Mr. Ha stated there are 160 seats, currently they are not bolted to the floor, but they could be.

Commissioner Tabladillo asked how many people could be in the basement for the English services. Mr. Ha stated 40 people could be in the basement.

Commissioner Tabladillo asked what the multi-purpose room would be used for, banquets, weddings, etc, since there is a kitchen. Mr. Ha stated the room would be used for luncheons after Church services and would not be used concurrently with other rooms.

Commissioner Tabladillo asked what is the practice of the Church, could the multi-purpose room be rented out for weddings or other similar events. Mr. Hosea stated that it would only be used for Church weddings, not rented out.

Commissioner Tabladillo asked how many people could fit in the multi-purpose room if it were setup for a banquet. Mr. Ha stated that they would limit the number to the capacity.

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Chair Williams asked staff if the Fire Marshall has completed a study. Ms. Gilli stated Fire Marshall reviewed the floor plan and determined the capacity of the multi-purpose room is 130 people.

Commissioner Tabladillo asked with multiple large rooms, if different events can occur simultaneously. Neither Mr. Ha nor Mr. Hosea responded.

Commissioner Galang asked how many members there were about 6 years ago. Mr. Hosea stated they started with twenty members.

Commissioner Galang asked if every year membership increases, what is the number of active members. Mr. Hosea stated the Church started approximately twenty years ago with twenty members and now have 125 members.

Commissioner Galang asked if there would be any activities during “normal” business hours, Monday thru Friday. Mr. Ha stated that these days the facility would mostly be used for administrative work, office staff and pastor. There is a proposal for a Wednesday evening prayer meeting and Friday evening fellowship.

Commissioner Galang asked what is the busiest day, day of worship services. Mr. Hosea stated the Church’s worship services are on Sunday mornings.

Commissioner Galang asked where the entrance to the main sanctuary is. Mr. Ha referred to page A-2 of the plans and stated the entrance to the sanctuary faces the street.

Commissioner Sandhu asked if there would be anyone living on site. Mr. Ha stated there would not be anyone living on the property.

Commissioner Sandhu asked if the building would just be “closed” after the services. Mr. Ha stated yes.

Commissioner Tabladillo asked if the back portion of the property near the cul-de-sac is all landscaping. Mr. Ha stated that currently it is only landscaping, they are planting trees and shrubs.

Commissioner Tabladillo asked if there were plans for a “play area” for children to run around safely. Mr. Ha stated there currently is not a designated are, but he could look into designating an area for a playground.

Phil Anthony, 2635 Greenrock Rd, Milpitas, said when he moved to Milpitas years ago he looked into purchasing this property to build a single-family home on, but he couldn't find it feasible. The problem is differential land movement that occurs when the hillside meets the valley floor and he is more concerned learning there are plans for a basement. The City and Santa Clara Valley Water District have had great repair expenses due to the land movement. He wants to be sure the applicant/owner knows there is great risk involved with building on this site and if the City is willing to allow a building to be built that may not be inhabitable in ten years. Mr. Anthony expressed additional concerns about the lack of overflow parking, street parking on Landess is usually taken with the residents of the apartment complexes, and the exit point may cause several accidents.

Chair Williams asked staff if there is a current seismic study on record for this property. Ms. Anthony stated there is a study and he received a copy.

Flora Brahmhatt, 2201 Pinard St, Milpitas, said she has concerns about anything coming in that area. Parking is a problem; she lives in a community where the residents are prohibited from parking on the street and if there is an overflow, people will park in her community. The parking lot will draw attention; there are currently issues with drag racing, speeding, and little Police enforcement. If people are forced to park on the neighboring streets, how will they safely walk to the Church? When exiting onto Piedmont it is a divided one-way road and the only way to get back to Landess is to drive through the neighborhood or to make an illegal U-turn.

Minash Ladarvia, 2285 Pinard St, Milpitas, said this will cause problems for residents leaving his neighborhood because it is a divided road when they exit they currently have to make a U-turn at Landess and Piedmont to go back towards Calaveras. Having a Church entrance immediately after the intersection will cause problems and accidents with people leaving the neighborhood. He values his view of the pristine hillside and having a non-residential building would attract more people and more development. There are also several environmental concerns and impacts to the property values.

Noor Laiwalla, 2630 Greenrock Rd, Milpitas, said he is concerned that the back of the property is open to the hillside and not fenced; people could enter the backyards of the residents in his neighborhood; it is a safety concern.

Gerry Sobeck, 1055 Ridgemont Dr, Milpitas, said he is concerned about the safety of the Church members since the property is close to a fault line; traffic and speeding violations make it unsafe. Suggests the Church look to existing real estate rather than developing on this property.

Rama Kunda, 2258 Pinard St, Milpitas, said he also has concerns about the parking, it will have less than 59 spaces because some of the spaces will be used for staff, when there is an overflow, people will be circling the surrounding neighborhoods looking for parking. He is also concerned about the frequent bicyclists that use the bike lane on Piedmont, especially on the weekends, creating more traffic hazards. This facility will not be able to adequately accommodate a growing congregation.

Marissa Martinez, 2676 Greenrock Rd, Milpitas, provided a petition signed by several people in her neighborhood. The petition expresses the following concerns: parking, safety of bicyclists, pedestrians and vehicles, there are no sidewalks, if developed the property should only be designated for a single-family home, the site was a City owned roadway, but deemed unsuitable for a road.

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Nulu, 2261 Pinard St, Milpitas, said he is concerned about the added traffic, but his family moved to this neighborhood for the peaceful serene atmosphere the hillside provides and any construction will mar the situation and there'd be no reason to stay.

Roy Laurens, 72 Parc Place Dr, Milpitas, said he is speaking both as a resident and Church member; the Church is comprised of two categories of members, families and students. Parking should not be an issue because the families will travel in one vehicle and the Church provides a transport van for the students and member without vehicles. The Church has a transportation committee for its youth services; this committee is responsible for transporting the participating youth to events. As a resident he believes having a Church will add to the surrounding area because when you drive on Piedmont there is housing to left, but the right is empty and having a building will improve the area.

Roopa Sastry, 1064 Ridgemont Dr, Milpitas, said her backyard faces Piedmont and on several occasions drunk drivers have driven off the road and into the residents' backyards; increasing the traffic in this area will only cause more accidents. She suggested the applicant find an existing facility because she is also concerned about building on an earthquake zone and the potential for the building to slide into the backyards.

Tong Zhu, 2308 Farmcrest St, Milpitas, said his primary concern is safety; he has had several near accidents; at night it is difficult to see a bicyclist, there's no sidewalk, and to cross the street children will need a "crossing guard"; putting a Church in this location will cause accidents.

Richard Kidarsa, 216 Parc Place Drive, Milpitas, said he is a Church member and parking will not be an issue; most of the congregation is families and students; the Church has a transportation committee to drive around and pick people up; understands there are concerns about drunk driving, drag racing, lighting and children being hit, but most of the Church's activities are during the day, primarily on Sundays.

Yen Fang, Church member, Union City, said he is on the Church's building committee; the Church has been looking for a suitable facility for eight years and have not found one, they are too big or too small; the Church is concerned with safety and hired a geological consultant to conduct a second survey, the report says as long as the building is built based on their recommendations it will be safe; the Church is a small community whose core congregation has remained fixed with students coming and going, so growth would be minimal.

Priti Surti, 2285 Pinard St, Milpitas, said she too is concerned about traffic and the overflow into her neighborhood; her neighborhood is strictly residential and it is difficult to turn around; there is a community pool that the residents use and they need the parking spaces at the pool.

Daniel, Church member, Fremont, said he understands there is a concern about parking, but he doesn't anticipate there being an issue, many members carpool and currently the parking lot of the facility they rent is less than half full; the posted speed limit is 25 MPH and everyone should be obeying the speed limit

Arthi Kunda, 2258 Pinard St, Milpitas, said she is also concerned about parking and safety; understands the Church primarily operates during the day, but if they rent out the multi-purpose room it could be evening events too; not clear if 120 members is 30 families or 120 families; not being able to make a U-turn to get back to Landess after exiting the Church, members will circle through her neighborhood causing more traffic.

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Daniel Tae, Church member, San Jose, said he is the oldest Church member; the idea that the Church has rapidly grown is not true; most of the congregation is students who come to go to school and then return home; concerns about traffic are important, but the speeding should be handled with Police enforcement or reduced speed limits.

Esther Hosea, Church member, San Francisco, said the Church has been in existence for 23 years, but their growth is limited because students come to study and after four years they graduate and return home very few immigrate here; if the Church has a wedding for members the wedding is in the Church, but the reception is at a restaurant or hotel.

Tommy Tae, Church member, said the Church did have a traffic study conducted by a consultant and with the Church's hours of operation it is not an impact; the current plans add streetlights so it will not be as dark as it is today; they also had a geological and seismic study completed and they would not be building if it were unsafe.

Naomi Wongsaporo, 402 Avenue De Palmas, San Jose, said she is also a Church member and having a building of their own would be a huge blessing; the Church members do carpool, the families are large so the use fewer cars and they have a transport van; this would be a great opportunity for the Church; putting a Church in the area may help increase Police patrols; the Church is active in the community.

Martha Conway, Church's Real Estate Agent, San Jose, said she has been working with the Church for three years; realizes new development will always be met with concerns and she understands the residents concerns; the Church has looked at several sites, and this is the perfect property for their Church; the Church has completed all of the studies required by the City and all of the residents' concerns were addressed within the studies.

Yagnesh Brahmhatt, 2279 Pinard St, Milpitas, said he doesn't dispute the good the Church will bring, but he is concerned with only 59 parking spaces; even though the Church doesn't anticipate much growth, they can't be sure; a consultant can conduct a study, but the residents have a more real idea of the traffic impacts.

Henry Hiyashi, 1428 Essex Way, San Jose, said he is a Church member and would like to address the parking concerns; the congregation has not grown in six years and if the congregation grows they can split the services to have a morning and afternoon service instead of only one; with the Church services moving to Milpitas it will most likely increase the number of members who carpool.

Carolina, Church member, Fremont, said for the congregation their main concern is highway access and it is about the same "two miles" to the freeway if you take Landess or Calaveras, so an illegal U-turn shouldn't be a concern because members would drive to Calaveras or they could turn up Yosemite Dr to get to Park Victoria Dr; the area has several schools without a traffic problem.

Motion to close the public hearing on Item 3.

M/S: Sandhu / Mandal

AYES: 6

NOES: 0

ABSENT: 1 (Larry Ciardella)

ABSTAIN: 0

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Vice-Chair Mandal asked to clarify if the Church has 125 members or 125 families. Ms. Gilli stated that the Church has 125 members.

Vice-Chair Mandal asked if there were plans for a security gate or fence. Ms. Gilli stated there are not currently plans for a fence.

Vice-Chair Mandal asked if the Traffic Division conducted a study of the inflow and outflow of traffic in the area. Ms. Gilli stated the applicant hired a consultant to conduct a traffic study based on the estimated number of trips and the report determined the project would not increase traffic flow enough to require further investigation.

Chair Williams asked why the traffic and seismic reports were not included in the packet. Ms. Gilli stated that she summarized the geological report, and did not include the actual reports, but she could provide them to the Commission.

Commissioner Sandhu asked if the seismic issue is not considered an environmental issue, resulting in the project being exempt from further environmental study. Ms. Gilli stated the seismic issue is an environmental concern, but the geological study determined the site was acceptable for development, which means there is no further review required.

Commissioner Sandhu asked if it was due to seismic issues, a few years ago that caused Piedmont Road to be closed for several days for repairs. Mr. Lindsay stated there are continuing earth movement in the area; the study conducted was based on the floor plan as designed; any building will need to be built to the structural engineer's standards.

Commissioner Sandhu asked if a building could safely be built on this property. Mr. Lindsay stated that a building could be built safely if it's built with all of the appropriate engineering safeguards.

Commissioner Tabladillo asked staff to provide copies of the two seismic reports and the traffic report.

Commissioner Galang asked how many Church facilities there are in Milpitas. Ms. Gilli stated she is not sure.

Commissioner Galang asked which facility is the oldest Church in the City and what issues arose with 10 years of operation. Ms. Gilli stated she has not researched the evolution of Churches, but she could look into it.

Commissioner Galang asked if the City considered for adding speed bumps to Piedmont Rd. Ms. Gilli stated Public Works department reviewed the traffic and circulation of the site and speed bumps were not recommended.

Commissioner Galang asked what is the intersection where people will be forced to make a U-turn at and is there a designated turn lane. Ms. Gilli showed the area on the map, but stated she was unsure about the name of the street or a turn lane.

Commissioner Galang asked what happens if in the future there are 300 active members and still only 59 parking spaces. Ms. Gilli stated that with a Conditional Use Permit, the applicant must follow the Conditions set forth and if at any time the Church's use is in violation of the Conditions or the City receives complaints the Commission can re-evaluate the use.

Chair Williams asked if we received a color texture. Ms. Gilli stated we have an 11x17 color board, but not material boards.

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Motion to continue the public hearing on Item 3 until the Commission receives the requested documents, the applicant conducts a neighborhood meeting, the applicant provides material boards, and the applicant studies the security of the parking lot.

M/S: Tabladillo / Mandal

AYES: 6

NOES: 0

ABSENT: 1 (Larry Ciardella)

ABSTAIN: 0

**5 ZONING
AMENDMENT NO.
ZA08-0010, SPECIFIC
PLAN AMENDMENT
NO. ST08-0003,
PARKING
ORDINANCE
AMENDMENTS**

Sheldon AhSing, Senior Planner, presented a request to amend the City of Milpitas Zoning Ordinance Section 53 regarding the amount of parking required, parking design standards and formatting changes to the section. The section affects parking for all zoning districts and uses within the City, including those within the Midtown and Transit Area Specific Plans. The proposed changes would affect new or remodel projects. Mr. AhSing recommended to close the public hearing and adopt Resolution No 09-007 recommending approval of the amendments to the City Council.

Chair Williams asked how do we get developers to be sensitive to Milpitas' unique parking issues in determining the best way to utilize parking and to understand that parking is an infrastructure with any development. Mr. AhSing stated that staff has been working with developers to find ways to find additional parking on site. Within the Transit Area Plan there is a 20% transit oriented development discount, but the developers can provide up to 100% of the required parking allowed in the Zoning Ordinance. Staff is educating developers to the concerns and sensitivity that decision makers have.

Commissioner Galang asked if it is legal for a car to park in the same location for a week with a "For Sale" sign. Mr. AhSing stated that while he is not too familiar with that section of the municipal code, he has noticed that cars in similar situations have notices from the Police Department.

Chair Williams asked Planning Director, James Lindsay, to confirm the existence of an ordinance with a 72-hour parking restriction. Mr. Lindsay confirmed that there are limitations to how long a car can be parked in the same location on a public and requested that concerned citizens contact the Police Department, after 3 days, to report any vehicles in violation.

Chair Williams opened the public hearing on Item 5.

There were no speakers from the audience.

Motion to close the public hearing on Item 5.

M/S: Mandal / Sandhu

AYES: 6

NOES: 0

ABSENT: 1 (Larry Ciardella)

ABSTAIN: 0

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Motion to adopt Resolution No 09-007 recommending approval of the amendments to the City Council.

M/S: Galang / Mandal

AYES: 6

NOES: 0

ABSENT: 1 (Larry Ciardella)

ABSTAIN: 0

**4 CONDITIONAL USE
PERMIT NO. UP08-0044**

Cindy Hom, Assistant Planner, presented a request to allow for the operation of a Large Family Child Care home within an existing 1,620 square foot single family home located at 689 Clauser Drive (APN: 028-06-045), zoned Single Family Residential minimum 6,000 square foot lot (R1-6). Ms. Hom recommended to adopt Resolution No. 09-010 approving the project subject to conditions of approval.

Chair Williams asked if any of the comments/oppositions were made personally to Ms. Hom or if they were all letters and emails. Ms. Hom stated that she receive one phone call, one email, and three letters.

Chair Williams asked if the majority of the concerns were about traffic or the proximity of other Child Care homes. Ms. Hom said a majority of the concerns were about both traffic and other Child Care homes.

Commissioner Sandhu asked how many bedrooms the home has and if there is a large living area. Ms. Hom stated there are a total of four bedrooms in the home, but the business primarily uses the family room, living room, kitchen, and one bedroom.

Commissioner Sandhu asked what are the ages of the children cared for. Ms. Hom stated that she would request the applicant answer the question.

Commissioner Tabladillo asked how many children are currently being cared for in the facility. Ms. Hom stated the facility is currently licensed to care for up to eight children, but requested the applicant answer for the exact number of children currently being cared for.

Commissioner Tabladillo asked how many children are cared for in the neighboring Child Care homes. Ms. Hom stated that they are each Large Family Child Care homes and are licensed to care for up to fourteen children, but she does not know how many children they each currently care for.

Commissioner Ali asked where the “rule” of not establishing another Large Family Child Care home within 300 feet of an existing facility. Ms. Hom stated that this is in Section 13 of the Municipal Code, however, there is a State Code (referred to in the Staff Report) that allows this to be brought to the Commission as a Conditional Use Permit. Assistant City Attorney, Bryan Otake further explained that the Municipal Code outlines development standards for the Planning Commission to consider when reviewing projects, but the Municipal Code does not prohibit multiple Large Family Child Care homes within 300 feet.

Commissioner Galang asked what is the minimum number of children that can be cared for. Ms. Hom stated there is no minimum number, but the maximum is fourteen children.

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Commissioner Galang asked if you would need to apply for a Conditional Use Permit to care for two children. Ms. Hom stated the Municipal Code has provisions for two types of Child Care homes: the Small Family Child Care home is permitted to care for up to eight children and the Large Family Child Care home is permitted up to fourteen children. In addition, in the Municipal Code, Large Family Child Care homes if they meet the development standards they are permitted by right.

Commissioner Galang asked what is the minimum/maximum number of staff required for a Small or Large Family Child Care home. Ms. Hom stated that for this particular project, the operator is the only staff.

Commissioner Galang asked if they have fourteen children, if it would still just be the operators. Ms. Hom stated that the applicant would be the best person to answer this question.

Peter Yun, 689 Clauser Drive, Milpitas, presented reasons to support this projects: 1) concerns about parking: the driveway allows for four vehicles to park at the same time and parents drop off/pick up the children within ten minutes, 2) the children are in the home 95% of the time and will not affect the neighbors, 3) responsible to the parents and community, even though the license will be for up to fourteen children there is no intention to have more than ten children at a time, 4) even with additional facilities within 300 feet, the population has increased and there is a greater demand for child care facilities.

Commissioner Tabladillo asked how many children are currently being cared for. Mr. Yun stated there are currently seven children.

Commissioner Tabladillo asked if there is a possibility of having earlier drop off times than 8:30 am. Mr. Yun stated the hours of operation start at 8:30 am and children are not dropped off early.

Commissioner Tabladillo asked if there is only one person watching the children. Mr. Yun stated they currently have one employee.

Commissioner Tabladillo asked the age of the youngest and oldest child. Mr. Yun stated the youngest child is 1.5 years old and the oldest is 2 years old.

Chair Williams asked where the operators park their vehicles if they use the four driveway spaces for drop off/pick up. Mr. Yun stated he parks his two vehicles in the garage.

Chair Williams opened the public hearing on Item 4.

There were no speakers from the audience.

Motion to close the public hearing on Item 4.

M/S: Galang / Sandhu

AYES: 5

NOES: 0

ABSENT: 1 (Larry Ciardella)

ABSTAIN: 1 (Sudhir Mandal)

Commissioner Tabladillo asked if there could be a condition that this item is reviewed in 6 months and then a final review in a year to be able to have individuals come back and revisit this for any concerns or problems.

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Motion to Adopt Resolution No. 09-010 approving the project subject to conditions of approval and the additional conditions made by the Commission.

M/S: Tabladillo / Galang

AYES: 5

NOES: 0

ABSENT: 1 (Larry Ciardella)

ABSTAIN: 1 (Sudhir Mandal)

**XI.
ADJOURNMENT**

The meeting was adjourned at 10:07 p.m. to the next regular meeting of March 11, 2009.

Respectfully Submitted,

James Lindsay
Planning & Neighborhood
Services Director

Debbie Barbey
Recording Secretary

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